



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY

919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

NOLAN P. ESPINDA
DIRECTOR

Maria C. Cook
Deputy Director
Administration

Jodie F. Maesaka-Hirata
Deputy Director
Corrections

Renee R. Sonobe Hong
Deputy Director
Law Enforcement

No. _____

**TESTIMONY ON SENATE BILL 1423
RELATING TO PAYMENT OF BAIL.**

by

Nolan P. Espinda, Director
Department of Public Safety

House Committee on Judiciary
Representative Chris Lee, Chair
Representative Joy A. San Buenaventura, Vice Chair

Monday, March 25, 2019; 2:00 p.m.
State Capitol, Conference Room 325

Chair Lee, Vice Chair San Buenaventura, and Members of the Committee:

The Public Safety Department (PSD) offers comments with regard to Senate Bill (SB) 1423, which would require a "county correctional center", in addition to a police department, or law enforcement agency, to manage the posting or payment of bail on a 24/7 basis.

First, PSD notes that "county correctional center" referenced in SB 1423 is a misnomer, because the community correctional centers on Hawaii, Kauai, Maui, and Oahu are State facilities located within the respective counties. The Department notes, further, that it has neither the staff, expertise, nor safe and secure monetary handling resources to implement the bill's requirements.

Thank you for the opportunity to present this testimony.



The Judiciary, State of Hawai‘i

House Committee on Judiciary

Representative Chris Lee, Chair

Representative Joy A. San Buenaventura, Vice-Chair

Monday, March 25, 2019, 2:00 PM
State Capitol, Conference Room 325

WRITTEN TESTIMONY ONLY

By

Shirley M. Kawamura

Deputy Chief Judge, Criminal Administrative Judge, Circuit Court of the First Circuit
Reporter, Criminal Pretrial Task Force

Bill No. and Title: Senate Bill No. 1423, Relating to Payment of Bail.

Purpose: Senate Bill No. 1423 permits defendants for whom a monetary amount of bail has been set to pay the bail amount on a twenty-four hours a day, seven days a week basis and be released from custody forthwith upon posting or payment of bail.

Judiciary’s Position:

The Judiciary respectfully supports Senate Bill No. 1423, which adopts the recommendation of the Criminal Pretrial Procedures Task Force to allow payment of bail and defendant’s subsequent release, at any time.

Pursuant to House Concurrent Resolution No. 134, H. D. 1 Regular Session of 2017, Chief Justice Mark E. Recktenwald established the Criminal Pretrial Procedures Task Force to examine and recommend legislation to reform Hawai‘i’s criminal pretrial system. The Task Force embarked on its yearlong journey in August 2017. It began with an in-depth study of the history of bail and the three major generations of American bail reform of the 1960s, 1980s, and the last decade. The Task Force members researched the legal framework underlying current practices, which are firmly rooted in our most basic constitutional principles of presumption of innocence, due process, equal protection, the right to counsel, the right to confrontation and that in America, liberty is the norm and detention is the very limited exception. We invited national experts and delved into the latest research and evidence-based principles and learned from other



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jurisdictions where pretrial reforms are well underway. We reviewed previous studies conducted in our state, engaged with community experts and heard the views of our local stakeholders. We visited our cellblocks, jails, ISC offices and arraignment courts in an effort to investigate and present an unbridled view of our criminal pretrial process.

The recommendations set forth in the report seek to improve our current practices, with the goal of achieving a more just and fair pretrial release and detention system, maximizing defendants' release, court appearance and protecting community safety. With these goals in mind, the Task Force submitted twenty-five recommendations, to include amending Section 804-7 of the Hawaii Revised Statutes to allow criminal defendants to post bail and be released from detention at any time. The Task Force concluded that defendants should not be detained simply because of an administrative barrier requiring that bail or bond be payable only during normal business days/hours. The Judiciary respectfully supports Senate Bill No. 1423 in so far as it adopts the recommendation of the Criminal Pretrial Task Force.

Thank you for the opportunity to submit testimony on this measure.

SB-1423

Submitted on: 3/24/2019 6:46:19 PM

Testimony for JUD on 3/25/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Office of Hawaiian Affairs	Office of Hawaiian Affairs	Support	No

Comments:

SB-1423

Submitted on: 3/23/2019 12:36:14 AM

Testimony for JUD on 3/25/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Lorenn Walker	Hawai'i Friends of Restorative Justice	Support	No

Comments:

Dear Honorable Committee Members:

We strongly support this bill to make bail payment for release from law enforcement custody available 24 hours a day seven days a week. This bill is one step necessary in dealing with Hawai'i's mass incarceration problem and the trouble that comes with commercialized corrections.

Thank you for your public service.

Lorenn Walker, JD, MPH, Director, Hawai'i Friends of Restorative Justice

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: [\(808\) 927-1214](tel:(808)927-1214) / kat.caphi@gmail.com



COMMITTEE ON JUDICIARY

Rep. Chris Kalani Lee, Chair

Rep. Joy SanBuenaventura, Vice Chair

Monday, March 25, 2019

2:00 pm

Room 325

STRONG SUPPORT - SB 1423 - 24/7 BAIL

Aloha Chair Lee, Vice Chair SanBuenaventura and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the families of **ASHLEY GREY, DAISY KASITATI, JOEY O'MALLEY, JESSICA FORTSON AND ALL THE PEOPLE WHO HAVE DIED UNDER THE "CARE AND CUSTODY" OF THE STATE** as well as the approximately 5,500 Hawai'i individuals living behind bars or under the "care and custody" of the Department of Public Safety on any given day. We are always mindful that more than 1,600 of Hawai'i's imprisoned people are serving their sentences abroad thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

SB 1423 permits defendants for whom a monetary amount of bail has been set to pay the bail amount on a twenty-four hours a day, seven days a week basis and be released from custody forthwith upon posting or payment of bail.

Community Alliance on Prisons is in strong support of this measure. Currently, a person who is arrested on a Friday night has been stuck in jail all weekend and if Monday is a holiday, they are imprisoned until Tuesday.

Currently, only Hawai'i island has 24/7 bail proving that it can be done...and should be done statewide.

This does not promote justice and is another burden on taxpayers, for something that can be easily fixed.

Community Alliance on Prisons thanks committees for hearing this important bill and we urge you to pass it!

Mahalo for this opportunity to testify.

SB-1423

Submitted on: 3/24/2019 11:24:10 AM

Testimony for JUD on 3/25/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Carl Bergquist	Drug Policy Forum of Hawaii	Support	No

Comments:

SB-1423

Submitted on: 3/25/2019 12:33:37 PM

Testimony for JUD on 3/25/2019 2:00:00 PM

LATE

Submitted By	Organization	Testifier Position	Present at Hearing
Melodie Aduja	Oâ€™ahu County Democrats Committee on Legislative Priorities	Support	No

Comments:

SB-1423

Submitted on: 3/22/2019 5:55:58 PM

Testimony for JUD on 3/25/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
John Bickel	Individual	Support	Yes

Comments:

I agree with Kat Brady: Currently, a person who is arrested on a Friday night has been stuck in jail all weekend and if Monday is a holiday, they are imprisoned until Tuesday. This does not promote justice and is another burden on taxpayers, for something that can be easily fixed.

SB-1423

Submitted on: 3/23/2019 6:49:05 AM

Testimony for JUD on 3/25/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Cathy Tilley	Individual	Support	No

Comments:

there is no reason to hold people over long weekend waiting to post bail it just adds to the overcrowding and causes people to miss work which could lead to them getting fired which could lead to them losing their home the trickle down goes on and on and effects poor people the most. It is a simple solution to a problem until we reform the whole bail system

Sincerely, cathy tilley

SB-1423

Submitted on: 3/23/2019 7:36:05 AM

Testimony for JUD on 3/25/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
E. Ileina Funakoshi	Individual	Support	No

Comments:

SB-1423

Submitted on: 3/23/2019 5:00:32 PM

Testimony for JUD on 3/25/2019 2:00:00 PM

Submitted By	Organization	Testifier Position	Present at Hearing
Diana Bethel	Individual	Support	No

Comments:

SB 1423 allows payment of bail and subsequent release at any time, 24/7.

This is the recommendation of the HCR 134 PreTrial Task Force.

This would cause less disruption in a defendant's life and enable the defendant to maintain a job, continue their education, care for their family, etc., among other necessary tasks that would be interrupted by incarceration. The greater the disruption in a defendant's life, the more vulnerable a defendant may become and the fewer options they may have as a result of an inability to sustain themselves.

Requiring bail payment/processing during business hours is arbitrary and a matter of convenience for the State. Allowing bail payment 24/7 will make a major difference in a defendant's life, save taxpayer money, reduce the volume of pretrial procedural processing, and reduce overcrowding in Hawaii's jails.

Hawaii island has adopted this policy and the entire state would do well to follow its example.

Please pass SB 1423.

Thank you.

ROBERT K. MERCE
2467 Aha Aina Place
Honolulu, Hawaii 96821

Telephone: (808) 732-7430
merc001@hawaii.rr.com

March 24, 2019

TO: Committee on Judiciary
RE: SB 1423
HEARING DATE: Monday, March 25, 2019
TIME: 2:00 PM
CONF. ROOM: 325
POSITION: **STRONG SUPPORT**

Dear Chair Lee, Vice Chair Buenaventura, and Members of the Committee:

I **strongly support** SB 1423 which would allow people in custody to make bail payments twenty-four hours a day, seven days a week, and be released from custody upon posting or payment of bail at any time.

A 2008 study found that Honolulu had the longest average jail length of stay among several large U. S. cities,¹ and recommended that the State “undertake a concerted effort to significantly reduce the length of stay at OCCC.” SB 1423 would reduce the length of stay for inmates who are able to make bail, and that in would save money for the state, and result in less disruption of the defendant’s life.

I urge you to pass SB 1423.

Thank you for allowing me to testify on this measure.

¹ See *Creating Better Outcomes, Safer Communities, Final Report of the HCR 85 Task Force on Prison Reform to the Hawaii Legislature, 2019 Regular Session*, p. 74.